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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,714	02/06/2001	Gary M. Katz	PIP-69A-KATZ	2896
31518	7590	08/18/2009	EXAMINER	
NEIFELD IP LAW, PC			ALVAREZ, RAQUEL	
4813-B EISENHOWER AVENUE				
ALEXANDRIA, VA 22304			ART UNIT	PAPER NUMBER
			3688	
			MAIL DATE	DELIVERY MODE
			08/18/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GARY M. KATZ

Appeal 2008-005179
Application 09/776,714
Technology Center 3600

Mailed: August 17, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 12, 2009. A Docketing Notice was mailed and Appeal No. 2008-005179 assigned on August 18, 2008. A review of the application has revealed that the application was not ready for an appeal.

On January 13, 2005, the appellant filed a Petition to reinstate withdrawn claims 59-61. The Petition decision was mailed on September

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10, 2008, informing the petitioner that the reinstatement of claims 59-61 had been granted.

On November 18, 2008, the Examiner mailed a new Non-Final Rejection, which included claims 59-61 in the claims rejections.

On November 29, 2008, the appellant timely filed an amendment requesting the reopening of prosecution of the application under 37 C.F.R. § 41.39.

On December 9, 2008, the appellant filed a Petition under 37 CFR 1.181(A)(3) with the Office. We find no corresponding Decision on the Petition in the file.

Additionally, on January 30, 2009, the appellant filed an Appeal Brief in response to the November 18, 2008 Non-final Rejection (last Office Action). We find no corresponding response to that Appeal Brief.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to address both to the petition filed December 9, 2008, and the Appeal Brief filed January 30, 2009, and have responses entered into the electronic file.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/mev

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